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TRIPURA LEGISLATIVE ASSEMBLY

SECRETARIAT

NEW CAPITAL COMPLEX
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No.F.7(12-15)-LA/2019. *Dated, Agartala the 1st September, 2019.*

N O T I F I C A T I O N

" As required under Rule 117 of the Rules of Procedure and Conduct of Business in the Tripura Legislative Assembly, **"The Prisoners (Tripura Second Amendment) Bill, 2019 (The Tripura Bill No. 4 of 2019) "** as introduced in the Assembly on the **30th August, 2019** is published in the Tripura Gazette."

1.9.19

(S. Sikdar)
Secretary
Tripura Legislative Assembly

The Tripura Bill No. 4 of 2019

THE PRISONERS (TRIPURA SECOND AMENDMENT) BILL, 2019

A

BILL

to further amend the Prisoners Act, 1900 (Central Act No. 3 of 1900) (as was amended by the Tripura Act No.20 of 1979), in its application to the State of Tripura.

BE it enacted by the Tripura Legislative Assembly in the seventieth year of the Republic of India, as follows:

1. Short title and commencement:

(1) This may be called the 'Prisoners (Tripura Second Amendment) Act, 2019';

(2) It shall come into force on and from the date of its publication in the Tripura Gazette.

2. Amendment of Section 2:

In the definition of 'prison' under clause (b) of Section 2 of the Prisoners Act, 1900 (as was amended by the Tripura Act № 20 of 1979) (hereinafter referred to as the Principal Act), after the expression 'subsidiary jail', the following expression shall be added-

", and shall include central jail, district jail, women jail and a Sanshodhanagar or a Correctional Home".

3. Amendment of Section 31A:

(1) In sub-section (1) of Section 31A of the Principal Act, the expression '**excluding the time required for journey from and to the prison**', shall be deleted;

(2) In the proviso to sub-section (1) of section 31A of the Principal Act, the expression '**or without**' shall be deleted;

(3) In sub-section (1) of section 31A, before the Explanation, the following two new Provisos shall be inserted as follows-

"Provided secondly that a convict convicted with capital punishment shall not be released on parole unless the punishment has been commuted or the capital punishment has been set side;

Provided thirdly that a foreigner or of disputed nationality shall not be released on parole;
Provided fourthly that wherever the concurrence of Government of India is required under section 435 of Code of Criminal Procedure, stipulations prescribed by Government of India on the parole shall prevail."

(4) In the Explanation given under sub-section (1) of Section 31A, in between the expressions 'Indian Penal Code, 1860' and 'or classified as a habitual criminal', the following expression shall be inserted-
"and those who are convicted under Terrorist and Disruptive Activities (Prevention) Act (TADA), Prevention of Terrorism Act, 2002 (POTA), Unlawful Activities (Prevention) Act, 1967 (UAPA), Explosive Substances Act, 1908, National Security Act, Anti-Hijacking Act, 2016, Protection of Children from Sexual Offences Act, 2012 (POCSO), Immoral Traffic (Prevention) Act, 1956, Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS), Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005, Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, and offences relating to Fake Indian Currency Notes (sections 489A to 489E of Indian Penal Code)" ;

(5) In sub-section (3) of section 31A, the word "**Tripura**" shall be substituted by "**India**".

(6) In sub-section (4) of Section 31A, after the expression 'bonds executed, with' and before the expression 'sureties', the expression '**or without**' shall be deleted:

(7) After sub-section (6) of Section 31A, a new sub-section shall be inserted as follows-

"(7) It shall be lawful for the authorities, making the order of release, to ask for the reason for such release."

4. Amendment of Section 31B:

Section 31B of the Principal Act shall be deleted.

5. Amendment of Section 31C:

In sub-section (1) of section 31C of the Principal Act, the expression "**or under section 31B**" shall be deleted.

6. Amendment of Section 31D:

(1) In clause (a) of sub-section (2) of section 31D, the expression "**or under section 31B**" shall be deleted.

(2) In clause (b) of sub-section (2) of section 31D, the expression "**or as the case may be of extension of release under section 31B**" shall be deleted.

(3) In clause (c) of sub-section (2) of section 31D, the expression "**or section 31B**' shall be deleted.

(4) In clause (d) of sub-section (2) of section 31D the expression "**or section 31B**' shall be deleted.

STATEMENT OF OBJECT AND REASONS

Prisoners Act, 1900 (Central Act No. 3 of 1900) (as was amended by the Prisoners (Tripura Amendment) Act, 1979 (Tripura Act No.20 of 1979)) regulates the parole to the convicts in the prisons of Tripura.

2. Convicts are kept not only in subsidiary jails in Tripura, but also in jails notified as district jail, women jail and central jail. Moreover, jails are transforming to Sanshodhanagar or Correctional Homes. The law regulating parole must cover all such jails.

3. In last few decades, terrorism, narcotics, black money and women-related crimes have received prominence. Also, it is undesirable to release on parole those convicted of capital punishment or are citizen of a foreign country or are of disputed nationality. Section 435 of Code of Criminal Procedure requires consultation with the Central Government in certain cases while granting parole. Based on the experience with the application of parole and grant of parole in the last some decades, it is felt expedient to bring about certain amendments to the law regulating parole.

4. As per the existing law, a convict granted parole is required to remain within the state of Tripura. However, a convict may be required to visit other part of the country for bona fide purpose, including for treatment. Nevertheless, no convict may be allowed to leave the country on parole.

5. The provision of journey time from and to prison in addition to the period of parole may be open to misinterpretation, and serves little purpose. The provision of journey time may be removed.

6. In order to prioritize application for parole, including grant of parole on emergency, there should be provision to enable the authorities to ask the convict to specify reason for seeking parole.

7. Even though the ordinary parole is for a period upto one month, the provision of long term parole upto eight years in the existing law has not been invoked in last few decades. The provision for long term parole serves no useful purpose, and can be susceptible to abuse. So, it is desirable to remove the provision for long term parole, and all references to it in the law.

The Bill seeks to achieve the above objects.

TECHNICAL REPORT

The subject matter of the Bill is relatable Entry № 4 of the State List (List II) of the Seventh Schedule to the Constitution of India. Therefore, the state legislature is competent to make a law on this subject. The provisions of the Bill are not repugnant to any provision of the Constitution of India, or any existing central law. The Bill does not attract the proviso to Clause (b) of Article 304 of the Constitution of India, and therefore, previous sanction of the President of India shall not be necessary for promulgation of the bill or introduction of the bill. It is not a money bill within the meaning of Article 199(1) of the Constitution of India, and would not involve any additional expenditure from the Consolidated Fund of the state if the bill is promulgated, and brought into operation. Therefore, prior recommendation of the Governor is not necessary for consideration of the Bill by the state legislature under clause (3) of Article 207 of the Constitution of India.

FINANCIAL MEMORANDUM

The bill does not involve any additional financial burden to the exchequer. It does not envisage creation of any post or structure. Enforcement of the bill will not require any additional resources. The bill can be enforced by the existing manpower and resources.